IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

WRIT PETITION NO.7409 OF 2005

Anil Shivnarayan Vaidya : Petitioner

V/s.

Cosmos Coop. Bank Ltd. : Respondent

...

Mr.N.R. Bubna for the petitioner.

Mr.A.Y.Sakhare for the respondent.

...

CORAM : S.A. BOBDE, J.

October 25, 2005.

P.C.

1. The petitioner has filed this petition praying that the Civil Judge, Senior Division, Pune, be directed to forthwith hear and decide the interim application filed by him in Special Civil Suit no.661/2005 and to restrain the respondent-Bank from taking any coercive steps against him in respect of property being shop no.20, Phase II, survey no.93, Laxmi Nagar, Shahu College, Chowk, Pune. The petitioner has also prayed for a direction to the respondent not to sell or take any coercive steps against him or his properties under the Securitisation and Reconstruction of Financial Assets and Enforcement of

Security Interest Act, 2002, hereinafter referred to as the "Securitisation Act".

2. Having heard the learned counsel for the petitioner and the learned counsel for the respondent and the provisions of the aforesaid Act, I am of view that the petitioner is not entitled to any such relief. The petitioner’s suit, inter alia, claims a set-off against the Bank in respect of recovery initiated by the Bank for the loans advanced to the petitioner. In the interim application filed in the civil suit, the petitioner has claimed that the respondent-Bank be directed to remove its locks and be further restrained from selling the petitioner’s property.

3. Allowed to withdraw with liberty to file an appeal under section 17 of the Securitisation Act.

Sd/-

(S.A. BOBDE, J.)